

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1 Sept. 99  
BILL NO. AB-79 S. 16  
or  
SUBJECT \_\_\_\_\_

Kenneth Kuehl Jr.  
(NAME)  
3326 Gn. Meadows Ln  
(Street Address or Route Number)  
Racine WI 53405  
(City and Zip Code)  
DAV  
(Representing)

Speaking in Favor: ☐  
Speaking Against: ☐  
Registering in Favor: ☐  
but not speaking: ☒  
Registering Against: ☐  
but not speaking: ☐  
Speaking for information only; Neither for nor against: ☐

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/1/99  
BILL NO. AB 79 / SRS 16  
or  
SUBJECT \_\_\_\_\_

Lk Danelund  
(NAME)  
PO Box 1623  
(Street Address or Route Number)  
Madison, WI  
(City and Zip Code)  
UPU - Dept of WIS  
(Representing)

Speaking in Favor: ☐  
Speaking Against: ☐  
Registering in Favor: ☐  
but not speaking: ☒  
Registering Against: ☐  
but not speaking: ☐  
Speaking for information only; Neither for nor against: ☐

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# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/1/99  
BILL NO. AB 79  
or  
SUBJECT Plus Recreation

A. Steven Porter  
(NAME)  
(Street Address or Route Number)  
2 N. Packer St.  
(City and Zip Code)  
INDIVIDUAL RES. SENIOR  
Madison WI 53705  
(Representing)

Speaking in Favor: ☐  
Speaking Against: ☒  
Registering in Favor: ☐  
but not speaking: ☐  
Registering Against: ☐  
but not speaking: ☒  
Speaking for information only; Neither for nor against: ☐

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Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1-Sept 99

BILL NO. AB79 / SB16

or

SUBJECT \_\_\_\_\_

(Name) Secretary Raymond G. Bled

30 W. M. Gilman St.

(Street Address or Route Number)

(City and Zip Code) Madison WI

(Representing) WDA

Speaking in Favor: ☒

Speaking Against: ☐

Registering in Favor: ☐

Registering Against: ☐

Speaking for information only;  
Neither for nor against: ☐

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Senate Sergeant At Arms  
Room 410 - South  
P. O. Box 7882  
State Capitol  
Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-1-99

BILL NO. AB79 / SB16

or

SUBJECT Flag desecration

(NAME) Chris Almonty

207 E. Buffalo St.

(Street Address or Route Number)

(City and Zip Code) Madison WI 53702

(Representing) ACLU of WI

Speaking in Favor: ☐

Speaking Against: ☒

Registering in Favor: ☐

Registering Against: ☐

Speaking for information only;  
Neither for nor against: ☐

Speaking for information only;  
Neither for nor against: ☐

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1 SEP 99

BILL NO. AB-79 / SB-16

or

SUBJECT \_\_\_\_\_

(Name) Dave Larson

701 Tenney Dr.

(Street Address or Route Number)

(City and Zip Code) Madison, WI 53719

(Representing) \_\_\_\_\_

Speaking in Favor: ☐

Speaking Against: ☐

Registering in Favor: ☒

Registering Against: ☐

Speaking for information only;  
Neither for nor against: ☐

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Senate Sergeant At Arms  
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P. O. Box 7882  
State Capitol  
Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1 SEP 99

BILL NO. AB-79 / SB-16

or  
SUBJECT \_\_\_\_\_

(Name) Sen. Dave Zien

23rd Sen. District

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

Registering Against:

Speaking for information only;

Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant At Arms

Room 410 - South

P. O. Box 7882

State Capitol

Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9/1/99

BILL NO. AB 79 - SB 16

or  
SUBJECT Grimes Against

the Flag

(NAME) Senator Dave Zien

1716 63RD ST

(Street Address or Route Number)

(City and Zip Code) 23rd Sen. District

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against: ☐

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms

State Capitol - B35 South

P.O.Box 7882

Madison, WI 53707-7882

# SENATE HEARING SLIP

(Please Print Plainly)

DATE: 9-1-99

BILL NO. AB 79 SB-18

or  
SUBJECT Flag Protection Bill

(NAME) Rep. Petris

3830 ST RD 70

(Street Address or Route Number)

(City and Zip Code) Herfel, WI 54845

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against: ☐

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms

State Capitol - B35 South

P.O.Box 7882

Madison, WI 53707-7882

# History of Assembly Bill 79

## ASSEMBLY BILL 79

An Act to renumber and amend 939.645 (4); to amend 895.75 (title), 938.34 (14d) (title), 938.34 (14d) (d), 939.645 (2) (a), 939.645 (2) (b), 939.645 (2) (c) and 939.645 (3); and to create 938.34 (14d) (e), 939.645 (1m), 939.645 (4) (b), 943.012 (5) and 947.07 of the statutes; relating to: crimes affecting certain flags and providing penalties.

1999

- 02-02. A. Introduced by Representatives Pettis, Suder, Petrowski, Townsend, Montgomery, Jensen, Freese, Sykora, Huebsch, Ladwig, F. Lasee, Ainsworth, Hahn, Urban, Goetsch, Kedzie, Handrick, Vrakas, Hoven, Johnsrud, Musser, Kreuser, Seratti, Albers, Gard, Ziegelbauer, Brandemuehl, Owens, Ryba, Kreibich, Gunderson, Kelso, Kaufert and Meyerhofer; cosponsored by Senators Zien, Breske, Fitzgerald, Welch, Drzewiecki, Huelsman, Roessler, Darling, Rude, Panzer, Schultz, Farrow and A. Lasee.
- 02-02. A. Read first time and referred to committee on Judiciary and Personal Privacy ..... 56
- 02-09. A. Public hearing held.
- 02-10. A. Executive action taken.
- 02-10. A. Assembly amendment 1 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 2 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 3 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 4 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 5 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 6 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 7 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 8 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-10. A. Assembly amendment 9 offered by committee on Judiciary and Personal Privacy ..... 65
- 02-11. A. Report Assembly amendment 1 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 9, Noes 0 ..... 67
- 02-11. A. Report Assembly amendment 2 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 8, Noes 1 ..... 67
- 02-11. A. Report Assembly amendment 3 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 9, Noes 0 ..... 67
- 02-11. A. Report Assembly amendment 4 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 9, Noes 0 ..... 67
- 02-11. A. Report Assembly amendment 7 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 6, Noes 3 ..... 67
- 02-11. A. Report Assembly amendment 9 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 8, Noes 1 ..... 67
- 02-11. A. Report passage as amended recommended by committee on Judiciary and Personal Privacy, Ayes 6, Noes 3 ... 67

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02-11.	A. Placed on calendar 2-17-1999 by committee on Rules.	
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02-17.	A. Assembly amendment 11 withdrawn and returned to author .....	76
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02-17.	A. Rules suspended .....	76
02-17.	A. Read a third time .....	76
02-17.	A. Rules suspended to reconsider vote by which ordered to a third reading .....	76
02-17.	A. Rules suspended to reconsider vote by which Assembly amendment 8 was adopted .....	76
02-17.	A. Assembly amendment 8 laid on table .....	76
02-17.	A. Ordered to a third reading .....	76
02-17.	A. Rules suspended .....	76
02-17.	A. Read a third time and passed, Ayes 81, Noes 17 .....	76
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### Text of Assembly Bill 79

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To: Member of the Judiciary and Public Privacy Committee  
From: Rep. Mark Pettis  
Subject: Testimony in support of AB 79

Mr. Chairman, members of the committee, I want to thank you for the opportunity to come before you today and testify in support of Assembly Bill 79. I come before you today, not only as the sponsor of this bill, but as an American and a veteran who holds the flag and all it symbolizes near and dear to my heart. As you may know, this bill would create penalties for crimes that involve the damaging, destroying or mutilating a US or state flag. The definition of damaging or destroying would include urinating, defecating, or expectorating upon the flag. Intentionally damaging a flag that belongs to another person is also covered in this legislation. AB 79 also includes a penalty enhancer which would increase the penalties that can be levied against those who commit these types of crimes. The penalty enhancer would be the same as one that is in place for "hate crimes" which increases maximum fines, jail terms, and status of crime.

Many of you may remember Assembly Joint Resolution 52, AJR 52 as different from the bill you have before you today. AJR 52 simply urged Congress to begin the process of amending the constitution to enable Congress and the states to enact legislation prohibiting the desecration of the American flag. Assembly Joint Resolution 52 passed the Assembly 77-21 and then was ultimately approved by the Senate.

AB 79 is a much more specific piece of legislation. This bill addresses a specific objection of the Wisconsin State Supreme Court which stated the current law is unconstitutionally overbroad in *State v. Janssen*. The current law in Section 946.05 of the Wisconsin Statutes reads

946.05 Flag desecration.

946.05(1)

(1) Whoever intentionally and publicly mutilates, defiles, or casts contempt upon the flag is guilty of a Class E felony.

AB 79 seeks to strengthen that statute by adding more specific language to the statutes. The bill would prohibit a person from destroying, damaging, or mutilating a flag with the intent to cause imminent violence or a breach of the peace under circumstances in which the actor knows that his or her conduct is

likely to cause violence or a breach of the peace. That last statement taken from the bill summary and the penalty enhancers I spoke about earlier is essentially the difference between this bill and AJR 52. This bill specifically addresses the “unconstitutionally overboard” decision by the State Supreme Court by specifically addressing the violence or breach of peace that is a result of the damaging or mutilating of a flag in public. The currently law does not specifically define that and therefore was deemed “unconstitutionally overboard.”

Leaving the legal support for this legislation behind, I want to personally address the need for this bill to be passed. I am a veteran and there are numerous other veterans that feel the same way I do. When I and others took the oath of enlistment, we promised to defend this nation and all it stands for. All it stands for is symbolized in the American flag. It is our national identity. When I see the flag it evokes a sense of pride that the United States stands for freedom and equality. The flag also reminds me of those who have sacrificed their lives to preserve what it stands for. The U.S. flag has been on the along side every soldier, sailor, and airmen on every battle field, in every war in some way, shape or form throughout the history of this country. Be it carried by a soldier, affixed to a soldiers uniform as a patch or painted on the side of a ship, plane or tank, the symbol of our freedom has always been there. Some of the most compelling images in history involve our flag. Who does not know about the Marines raising the flag on Iwo Jima in World War II? During the War of 1812 Francis Scott Key looked upon the flag at Fort McHenry in Baltimore Harbor and thought the flag was such a symbol that he wrote a poem about it that we now use as our National Anthem. That flag now has a prominent place in history and sits on display at the National Archives in Washington. This is the length that others have gone to honor the symbol of our nation. It is now our sacred duty to simply protect it.

In 1940, noting that the national bird needed protected, Congress passed the Bald Eagle Protection Act, which made it illegal to kill, harass, possess, or sell bald eagles. It was a full 27 years later that bald eagles were officially declared an endangered species. There was a  
Sentiment in 1940 to protect this symbol of nation long before it was endangered and that same sentiment for the flag exists today. A recent Gallup Poll showed that 81 percent of Americans support this effort. AB 79 has more than one-third of the Assembly and nearly half of the Senate as co-sponsors.



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone: (608) 266-1304  
Fax: (608) 266-3830  
Email: leg.council@legis.state.wi.us

DATE: August 25, 1999  
TO: SENATOR GARY R. GEORGE  
FROM: Ronald Sklansky, Senior Staff Attorney  
SUBJECT: 1999 Assembly Bill 79, Relating to Crimes Affecting the U.S. Flag and Providing Penalties

This memorandum, prepared at your request, describes the provisions of 1999 Assembly Bill 79, relating to crimes affecting the U.S. flag and providing penalties. The Assembly passed the bill on February 17, 1999 on a vote of Ayes, 81 and Noes, 17. On the following day, the bill was referred to the Senate Committee on Judiciary and Consumer Affairs.

### A. BACKGROUND

Section 946.05, Stats., provides that whoever intentionally and publicly mutilates, defiles or casts contempt upon the flag is guilty of a Class E felony. The term "flag" is defined to mean anything which is or purports to be the Stars and Stripes, the U.S. Shield, the U.S. coat of arms, the Wisconsin state flag, or a copy, picture or representation of any of them. Prior to December 31, 1999, a Class E felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both. On or after December 31, 1999, a Class E felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed five years, or both. [See s. 939.50, Stats.]

In *State v. Janssen*, 219 Wis. 2d 362, 580 N.W.2d 260 (1998), the Wisconsin Supreme Court ruled that s. 946.05, Stats., is unconstitutional as a violation of the guarantee of the freedom of speech contained in the First Amendment to the U.S. Constitution. In reaching its conclusion, the supreme court considered whether the statute was substantially overbroad. That is, regardless of whether the statute could constitutionally be applied to the facts in the *Janssen* case, the court considered whether the statute conceivably could be applied unconstitutionally to other situations not presented in the case. With regard to this form of analysis, the court made the following comments:



Assembly Bill 79 amends s. 939.645, Stats., to provide that the penalty for an underlying crime also will be increased if a person does all of the following:

- a. Commits a crime under chs. 939 to 948, Stats.
- b. While committing the crime, intentionally destroys, damages or mutilates a flag or causes a flag to come into contact with urine, feces or expectoration.

Currently, s. 939.51, Stats., provides that a Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both; that a Class B misdemeanor is punishable by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both; and that a Class C misdemeanor is punishable by a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both. The penalty enhancer contained in Assembly Bill 79 provides that if the underlying crime is ordinarily a Class B or Class C misdemeanor, the revised maximum fine is \$10,000 and the revised maximum period of imprisonment is one year in the county jail. If the crime is ordinarily a Class A misdemeanor, the bill provides that the penalty increase changes the status of the crime to a felony and the revised maximum fine is \$10,000 and the revised maximum period of imprisonment is two years. Finally, if the underlying crime is a felony, the bill provides that the maximum fine prescribed by law for the crime may be increased by not more than \$5,000 and the maximum period of imprisonment prescribed by law for the crime may be increased by not more than five years.

### 3. Civil Cause of Action for Certain Conduct Involving a Flag

Section 895.75 (1), Stats., provides that a person who suffers physical injury, emotional distress or property damage or loss by reason of conduct that serves as a ground for a penalty enhancement under s. 939.645, Stats., has a civil cause of action against the person who caused the physical injury, emotional distress or property damage or loss. Consequently, because Assembly Bill 79 provides a penalty enhancement for a person who commits certain crimes while intentionally taking specified action against the flag, a person who suffers physical injury or emotional distress or incurs property damage or loss as a result of intentional anti-flag activities while a crime is being committed will have a civil cause of action.

### 4. Disposition of a Juvenile Adjudged Delinquent

Section 939.34, Stats., provides numerous dispositions that a court may order when a juvenile has been adjudged delinquent. Assembly Bill 79 creates s. 938.34 (14d) (e), Stats., to add to the possible dispositions applied to a juvenile adjudged delinquent. The new disposition provides that a court may order a juvenile to participate in an educational program that teaches the history of the U.S. flag and the significance of the flag to the nation if the juvenile violation would otherwise have been subject to a criminal enhancement for anti-flag actions if the perpetrator were an adult.

# State of Wisconsin



GARY R. GEORGE  
SENATOR

## MEMORANDUM

TO: Members, Senate Committee on Judiciary and Consumer Affairs

FROM: Senator Gary R. George, Chair  
Senate Committee on Judiciary and Consumer Affairs

DATE: August 25, 1999

RE: Background Information for September 1, 1999 Hearing

Attached please find memos prepared by our Legislative Council Attorney Ron Sklansky, regarding items that are on the agenda for the September 1, 1999 hearing.

To clear up any misunderstanding, the Senate Committee on Judiciary and Consumer Affairs will hold two hearings on the child custody and placement provisions in the budget.

The first of these hearings will be Wednesday September 1, 1999 at 9:30 a.m. in Room 201 South East. Also on the agenda for that meeting will be a hearing on flag desecration legislation (AB 79 and SB 16) and an executive session on the seat belt bill (SB 50).

The second of these hearings will be a joint hearing with the Assembly Committee on Children and Families and the Assembly Committee on Family Law. It will be held Thursday, September 2, 1999 at 9:00 a.m. in the GAR Room (417 North). The only item on the agenda for this second hearing is the child custody and placement language in the budget.

I hope you find the attached memos to be useful and that this explanation clears up any questions you may have regarding the committee's schedule.



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: [leg.council@legis.state.wi.us](mailto:leg.council@legis.state.wi.us)

DATE: August 25, 1999

TO: SENATOR GARY R. GEORGE

FROM: Ronald Sklansky, Senior Staff Attorney

SUBJECT: 1999 Assembly Bill 79, Relating to Crimes Affecting the U.S. Flag and Providing Penalties

This memorandum, prepared at your request, describes the provisions of 1999 Assembly Bill 79, relating to crimes affecting the U.S. flag and providing penalties. The Assembly passed the bill on February 17, 1999 on a vote of Ayes, 81 and Noes, 17. On the following day, the bill was referred to the Senate Committee on Judiciary and Consumer Affairs.

### A. BACKGROUND

Section 946.05, Stats., provides that whoever intentionally and publicly mutilates, defiles or casts contempt upon the flag is guilty of a Class E felony. The term "flag" is defined to mean anything which is or purports to be the Stars and Stripes, the U.S. Shield, the U.S. coat of arms, the Wisconsin state flag, or a copy, picture or representation of any of them. Prior to December 31, 1999, a Class E felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both. On or after December 31, 1999, a Class E felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed five years, or both. [See s. 939.50, Stats.]

In *State v. Janssen*, 219 Wis. 2d 362, 580 N.W.2d 260 (1998), the Wisconsin Supreme Court ruled that s. 946.05, Stats., is unconstitutional as a violation of the guarantee of the freedom of speech contained in the First Amendment to the U.S. Constitution. In reaching its conclusion, the supreme court considered whether the statute was substantially overbroad. That is, regardless of whether the statute could constitutionally be applied to the facts in the *Janssen* case, the court considered whether the statute conceivably could be applied unconstitutionally to other situations not presented in the case. With regard to this form of analysis, the court made the following comments:

“The use of overbreadth analysis reflects the conclusion that the possible harm to society from allowing unprotected speech to go unpunished is outweighed by the possibility that protected speech will be muted.” Overbroad statutes may undesirably dissuade persons from exercising their rights by “chilling” their protected speech or expression. [*Id.*, 580 N.W.2d at p. 264; citations and footnotes omitted.]

The court found s. 946.05, Stats., substantially overbroad in all of its aspects; the statute criminalizes too many forms of protected speech. The court further held that the statute could not constitutionally be severed, or restructured by the court in a way that would preserve a portion of the statute, because:

. . . the clear intent of the legislature is to prescribe all speech or conduct which is grossly offensive and contemptuous of the United States flag. Therefore, *any* version of the current statute would violate fundamental principles of First Amendment law both in explicit wording and intent. [*Id.*, 580 N.W.2d at p. 270.]

## **B. 1999 ASSEMBLY BILL 79**

### **1. Causing Violence or Breach of the Peace by Damaging or Destroying a U.S. Flag**

Assembly Bill 79 creates s. 947.07, Stats., to provide that whoever destroys, damages or mutilates a flag or causes a flag to come into contact with urine, feces or excretion, with the intent to cause imminent violence or a breach of the peace under circumstances in which the actor knows that his or her conduct is likely to cause violence or a breach of the peace is guilty of a Class A misdemeanor. The term “flag” is defined to mean a flag of the United States consisting of horizontal stripes, alternately colored red and white, and a union of any number of white stars on a blue field. A Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. [See s. 939.51, Stats.] The bill does not repeal s. 946.05, Stats.

### **2. Penalty Enhancer for Crimes Involving Damage to or Destruction of a Flag**

Section 939.645, Stats., provides enhanced penalties for a category of actions known as “hate crimes.” In general, a person is subject to enhanced penalties if the person does all of the following:

a. Commits a crime under chs. 939 to 949, Stats., Wisconsin’s Criminal Code.

b. Intentionally selects the person against whom the crime is committed or selects the property that is damaged or otherwise affected by the crime in whole or in part because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property, whether or not the actor’s belief or perception was correct.

Assembly Bill 79 amends s. 939.645, Stats., to provide that the penalty for an underlying crime also will be increased if a person does all of the following:

- a. Commits a crime under chs. 939 to 948, Stats.
- b. While committing the crime, intentionally destroys, damages or mutilates a flag or causes a flag to come into contact with urine, feces or expectoration.

Currently, s. 939.51, Stats., provides that a Class A misdemeanor is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both; that a Class B misdemeanor is punishable by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both; and that a Class C misdemeanor is punishable by a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both. The penalty enhancer contained in Assembly Bill 79 provides that if the underlying crime is ordinarily a Class B or Class C misdemeanor, the revised maximum fine is \$10,000 and the revised maximum period of imprisonment is one year in the county jail. If the crime is ordinarily a Class A misdemeanor, the bill provides that the penalty increase changes the status of the crime to a felony and the revised maximum fine is \$10,000 and the revised maximum period of imprisonment is two years. Finally, if the underlying crime is a felony, the bill provides that the maximum fine prescribed by law for the crime may be increased by not more than \$5,000 and the maximum period of imprisonment prescribed by law for the crime may be increased by not more than five years.

### 3. Civil Cause of Action for Certain Conduct Involving a Flag

Section 895.75 (1), Stats., provides that a person who suffers physical injury, emotional distress or property damage or loss by reason of conduct that serves as a ground for a penalty enhancement under s. 939.645, Stats., has a civil cause of action against the person who caused the physical injury, emotional distress or property damage or loss. Consequently, because Assembly Bill 79 provides a penalty enhancement for a person who commits certain crimes while intentionally taking specified action against the flag, a person who suffers physical injury or emotional distress or incurs property damage or loss as a result of intentional anti-flag activities while a crime is being committed will have a civil cause of action.

### 4. Disposition of a Juvenile Adjudged Delinquent

Section 939.34, Stats., provides numerous dispositions that a court may order when a juvenile has been adjudged delinquent. Assembly Bill 79 creates s. 938.34 (14d) (e), Stats., to add to the possible dispositions applied to a juvenile adjudged delinquent. The new disposition provides that a court may order a juvenile to participate in an educational program that teaches the history of the U.S. flag and the significance of the flag to the nation if the juvenile violation would otherwise have been subject to a criminal enhancement for anti-flag actions if the perpetrator were an adult.

## Rossmiller, Dan

---

**From:** Templeton, Carrie  
**Sent:** Monday, August 16, 1999 1:26 PM  
**To:** Rossmiller, Dan  
**Subject:** RE: Sen. Judiciary & Consumer Affairs--Public Hearing/Executive Session Notice

Dan-

I was surprised to see that Assembly Bill 79 and Senate Bill 16 were included on your hearing notice for September 1. You did not mention these two bills to me when we spoke on Thursday. I'm assuming these were a last minute addition to the hearing.

Also, as I mentioned to you in an email message, Alice will have difficulty being in Madison for a 9:30 am hearing that day. I believe she still plans to attend at this time. Linda Anderson in our office will let you know if Alice is unable to attend.

Thanks.  
Carrie

*Carrie Templeton  
Office of Senator Alice Clausing  
10<sup>th</sup> Senate District*

-----Original Message-----

**From:** Rossmiller, Dan  
**Sent:** Monday, August 16, 1999 11:54 AM  
**To:** \*Legislative All Senate; \*Legislative All Assembly  
**Subject:** Sen. Judiciary & Consumer Affairs--Public Hearing/Executive Session Notice

<< File: hearing9-01-99.doc >>